

## METROPOLITAN AREA PLANNING COMMISSION

### MINUTES

**March 13, 2008**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, March 13, 2008, at 1:30 P.M., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: M.S. Mitchell, Chair; David Dennis; Darrell Downing; David Foster; Michael Gisick; Bud Hentzen; Hoyt Hillman; Ronald Marnell; Don Sherman (in @ 1:34 p.m.) and G. Nelson Van Fleet. Don Anderson; Bill Johnson; John W. McKay Jr. and Debra Miller Stevens were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; Neil Strahl, Senior Planner; Derrick Slocum, Associate Planner and Maryann Crockett, Recording Secretary.

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1. Approval of the February 21, 2008, MAPC minutes.

**MOTION:** To approve the February 21, 2008, minutes as amended.

**VAN FLEET** moved, **MARNELL** seconded the motion, and it carried (9-0).

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❖ **Items #2-1 and #2-2 may be taken in one motion, unless there are questions or comments.**

2. Consideration of Subdivision Committee recommendations from the meeting of February 28, 2008.

- 2-1. **SUB 2008-08: One-Step Final Plat -- TERRADYNE WEST 2<sup>ND</sup> ADDITION**, located on the north side of Central and west of 159<sup>th</sup> Street East.

NOTE: This is a replat of a portion of the Terradyne West Addition. The size of the lots has been decreased and the number of lots has increased from 5 to 11.

#### STAFF COMMENTS:

- A. The applicant needs to extend sanitary sewer to serve Lot 1, Block 5. All other lots currently have access to water and sanitary sewer.
- B. The applicant shall contact Debt Management regarding the need for submission of a respread agreement for existing improvements or a need for new petitions.
- C. City Engineering has approved the applicant's drainage plan.
- D. Traffic Engineering has approved the access controls. The plat proposes one street opening along Central and complete access control along the remaining street frontage.
- E. The final plat should reference range, township and section.
- F. The Reserves should be relabeled as Reserves A and B on the face of the plat and in the plat's text.

- G. The Blocks shall be relabeled as Blocks 1 and 2.
- H. Since this is a replat of a previous addition involved with the ownership and maintenance of reserves for that Addition, but not being replatted by this addition, the above covenants and/or other legal documents shall be provided which provides for this addition to continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.
- I. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- J. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- K. The applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- L. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.

- S. Westar Energy has requested that the applicant or agent contact the Subdivision Representative, Reed Holbrook (263-6360) due to the previous installation of electrical equipment for the original plat which may need to be relocated.
- T. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

**MOTION:** To approve, subject to staff recommendation.

**HILLMAN** moved, **HENTZEN** seconded the motion, and it carried (9-0).

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- 2-2. SUB 2008-09: One-Step Final Plat -- FIRE STATION #22 ADDITION**, located on the west side of Hydraulic and south of Pawnee.

NOTE: This is a replat of a portion of the Este Cate 2<sup>nd</sup> Addition. The applicant has requested a Conditional Use for a Safety Service.

STAFF COMMENTS:

- A. Municipal water and sanitary sewer services are available to serve the site.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the drainage plan. The applicant needs to extend storm sewer as part of site development.
- D. Traffic Engineering has approved access controls. The plat proposes one opening along Hydraulic.
- E. Traffic Engineering has requested 10-feet additional right-of-way along Hydraulic.
- F. The MAPC signature block needs to reference "John L. Schlegel, Secretary".
- G. The Applicant proposes to plat a 15-foot building setback along Hydraulic which represents an adjustment of the Zoning Code standard of 25 feet for the SF-5, Single-Family District. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission.
- H. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- I. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- J. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.

- K. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- L. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- M. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- N. Perimeter closure computations shall be submitted with the final plat tracing.
- O. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- P. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

**MOTION:** To approve, subject to staff recommendation.

**HILLMAN** moved, **HENTZEN** seconded the motion, and it carried (9-0).

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**SHERMAN** in @ 1:34 p.m.

❖ **PUBLIC HEARINGS – VACATION ITEMS**

**3-1. VAC 2008-03: Request to vacate a portion of platted public street right-of-way.**

**APPLICANTS:** Casa Bella Homeowners Association, c/o Gene Vitarelli, President

**AGENTS:** Ruggles & Bohm, PA, c/o Chris Bohm

**LEGAL DESCRIPTION:** Generally described as the middle 18-feet of the platted 87-foot Tara Falls Street right-of-way (ROW) with its south (beginning) end being in line with the southeast corner of Reserve "A," all in the Casa Bella Addition, Wichita, Sedgwick County, Kansas (see attached legal).

**LOCATION:** Generally located west of 127<sup>th</sup> Street East, on the north side of Pawnee Avenue, at the Tara Falls Street – Pawnee Avenue intersection (WCC #II).

**REASON FOR REQUEST:** Existing entry monument located in public street ROW.

**CURRENT ZONING:** The site is a platted, developed public street ROW. All abutting properties are zoned "SF-5" Single-family Residential.

The applicant is requesting the vacation of the described portion (see attached legal and the exhibit) of the platted Tara Falls public street ROW. An entry monument (considered a permanent subdivision sign by OCI, see attached photo) has been built in the platted ROW. The applicant proposes to create a reserve and an easement (exhibit) around the entry monument. As proposed, the reserve begins at the intersection of the Pawnee - Tara Falls intersection. As shown on the exhibit, there are 15-feet of paved ROW on the east side of the proposed 18-foot wide reserve, and 25-feet of paved ROW on its west side. There are 69-feet of total ROW remaining. Tara Falls is the collector street for the Casa Bella single-family subdivision, and it is also the only way in or out of the subdivision. The applicant has provided a photo of the entry monument. A sewer line runs through the north portion of the proposed reserve/easement, but there are no other utilities located in it. The Casa Bella Addition was recorded with the Register of Deeds January 19, 1996.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, the Traffic Engineer, Fire, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate a portion of the platted street ROW, as described with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle and the Derby Reporter, of the one-time notice of this vacation proceeding on February 21, 2008, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted street right-of-way and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted street right-of-way described in the petition should be approved with conditions:
- (1) As approved by the Traffic Engineer and Fire, provide Planning staff with an accurate legal description of the approved vacated ROW on a word document via e-mail.
  - (2) Dedicate a reserve by separate instrument (with the original signatures) that is to be provided to Planning Staff to go with the Vacation Order to City Council for final action and subsequent recording with the Register of Deeds. The reserve will be only for the entry monument, landscaping and utilities confined to easements.
  - (3) Provide Planning Staff with a covenant (with the original signatures) that states that the ownership and maintenance of the reserve will be the responsibility of the homeowners association. This covenant is to be provided to Planning Staff to go with the Vacation Order to City Council for final action and subsequent recording with the Register of Deeds. Apply the language in section 7-207. Reserves (E) of the Subdivision Regulations to the covenant.

- (4) If necessary, provide a hold harmless agreement for City Water & Sewer to cover the sewer line that the existing, encroaching entry monument and the proposed reserve are built over. Provide a utility easement (with original signatures) to cover any utilities within the proposed reserve. The easement is to be provided to Planning Staff to go with the Vacation Order to City Council, for final action and subsequent recording with the Register of Deeds.
- (5) All improvements shall be according to City Standards, including certification / verification that the entry monument has been approved by OCI.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) As approved by the Traffic Engineer and Fire, provide Planning staff with an accurate legal description of the approved vacated ROW on a word document via e-mail.
- (2) Dedicate a reserve by separate instrument (with the original signatures) that is to be provided to Planning Staff to go with the Vacation Order to City Council for final action and subsequent recording with the Register of Deeds. The reserve will be only for the entry monument, landscaping and utilities confined to easements.
- (3) Provide Planning Staff with a covenant (with the original signatures) that states that the ownership and maintenance of the reserve will be the responsibility of the homeowners association. This covenant is to be provided to Planning Staff to go with the Vacation Order to City Council for final action and subsequent recording with the Register of Deeds. Apply the language in section 7-207. Reserves (E) of the Subdivision Regulations to the covenant.
- (4) If necessary, provide a hold harmless agreement for City Water & Sewer, to cover the sewer line that the existing, encroaching entry monument and the proposed reserve are built over. Provide a utility easement (with original signatures) to cover any utilities within the proposed reserve. The easement is to be provided to Planning Staff to go with the Vacation Order to City Council, for final action and subsequent recording with the Register of Deeds.
- (5) All improvements shall be according to City Standards, including certification/verification that the entry monument has been approved by OCI.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

**MOTION:** To approve, subject to staff recommendation.

MARNELL moved, SHERMAN seconded the motion, and it carried (10-0).

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**3-2. VAC 2008-04: Request to vacate a portion of platted public street right-of-way.**

**AGENTS:** Ruggles & Bohm, PA, c/o Chris Bohm

**LEGAL DESCRIPTION:** Generally described as the middle 11-feet of the platted 84-foot Fawn Grove Street right-of-way (ROW) with its east (beginning) end extending beyond the northeast corner of Lot 1, Block 1, all in the Fawn Grove at Sunset Lakes Addition, Wichita, Sedgwick County, Kansas, into the Greenwich Road ROW (see attached exhibit as opposed to the attached legal).

**LOCATION:** Generally located south of I-35, east of Greenwich Road, at the Fawn Grove – Greenwich Road intersection (WCC #II).

**REASON FOR REQUEST:** Existing entry monument located in public street ROW.

**CURRENT ZONING:** The site is a platted, developed public street ROW. All abutting northern, southern and western properties are zoned “GO” General Office. “SF-5” Single-family Residential zoned properties are located east of the site, across Greenwich Road.

The applicant is requesting the vacation of the described portion (see attached legal and the exhibit) of the platted Fawn Grove public street ROW and, per the attached exhibit, into the Greenwich Road ROW. The application states that an entry monument (considered a permanent subdivision sign by OCI, see attached photo) has been built in the platted ROW. The applicant proposes to create a reserve around the entry monument. As proposed on the exhibit, the reserve appears to extend into the Greenwich - Fawn Grove intersection. As shown on the exhibit, there are 26-feet of paved ROW on the south side of the proposed 11-foot wide reserve and 20-feet of paved ROW on its west side. The exhibit shows 13.5-feet of ROW from the back of the curb; the standard is 14.5-feet. There are 73-feet of total ROW remaining. Fawn Grove is the collector street for the Fawn Grove at Sunset Lakes single-family subdivision, and it is also the only way in or out of the subdivision. There are no utilities, manholes, water or sewer lines within the proposed reserve. The Fawn Grove at Sunset Lakes Addition was recorded with the Register of Deeds April 20, 2004.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, the Traffic Engineer, Fire, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate a portion of the platted street ROW, as described with conditions.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle and the Derby Reporter, of the one-time notice of this vacation proceeding on February 21, 2008, which was at least 20 days prior to this public hearing.

2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted street right-of-way and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted street right-of-way described in the petition should be approved with conditions;
1. As approved by the Traffic Engineer and Fire, provide Planning staff with an accurate legal description of the approved vacated ROW on a word document via e-mail.
  2. Dedicate a reserve by separate instrument (with the original signatures) that is to be provided to Planning Staff to go with the Vacation Order to City Council for final action and subsequent recording with the Register of Deeds. The reserve will be only for the entry monument, landscaping and utilities confined to easements.
  3. Provide Planning Staff with a covenant (with the original signatures) that states that the ownership and maintenance of the reserve will be the responsibility of the homeowners association; apply the language in section 7-207. Reserves (E) of the Subdivision Regulations to the covenant. Provide the covenant to Planning Staff to go with the Vacation Order to City Council for final action and subsequent recording with the Register of Deeds.
  4. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants.
  5. All improvements shall be according to City Standards, including certification / verification that the entry monument has been approved by OCI.
  6. Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) As approved by the Traffic Engineer and Fire, provide Planning staff with an accurate legal description of the approved vacated ROW on a word document via e-mail.
- (2) Dedicate a reserve by separate instrument (with the original signatures), to be provide to Planning Staff to go with the Vacation Order to City Council, for final action and subsequent recording with the Register of Deeds. The reserve will be only for the entry monument, landscaping and utilities confined to easements.
- (3) Provide Planning Staff with a covenant (with the original signatures), that states that the ownership and maintenance of the reserve will be the responsibility of the homeowners association; apply the language in section 7-207. Reserves (E) of the Subdivision Regulations to the covenant. The covenant is to be provided to Planning Staff to go with the Vacation Order to



City Council, for final action and subsequent recording with the Register of Deeds.

- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants.
- (5) All improvements shall be according to City Standards, including certification/verification that the entry monument has been approved by OCI.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

**MOTION:** To approve, subject to staff recommendation.

**MARNELL** moved, **SHERMAN** seconded the motion, and it carried (10-0).

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**3-3. VAC2008-05: Request to vacate a portion of a platted setback.**

**APPLICANT/OWNER:** Marsha R Anderson

**LEGAL DESCRIPTION:** Generally described as the east 3-feet of the platted 15-foot street side yard setback that runs parallel to Pepper Ridge Street on the west side of Lot 13, Block D, Fossil Rim Estates, Wichita, Sedgwick County, Kansas

**LOCATION:** Generally located of east Tyler Road, south of 29<sup>th</sup> Street North, on the southeast corner of 29<sup>th</sup> Street North and Pepper Ridge Street (WCC #V)

**REASON FOR REQUEST:** Additional room for a swimming pool

**CURRENT ZONING:** Site and all abutting western and adjacent properties are zoned "SF-5" Single-family Residential

The applicant proposes to vacate the east 3-feet of the platted 15-foot street side yard setback, making a 12-foot setback. The zoning of the subject site is SF-5. The UZC requires a minimum of a 15-foot street side yard setback for the SF-5 zoning district, which matches the platted setback. If this was not a platted setback the applicant could have applied for an Administrative Adjustment, which would reduce the SF-5's 15-foot street side yard setback by 20%, resulting in a 12-foot setback, which is what the applicant is requesting. There are no platted easements within the platted setback. There are no utilities, manholes, sewer or water lines within the described portion of the platted setback. The Fossil Rim Estates plat was recorded with the Register of Deeds May 31, 2002.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval of the vacation of the described portion of the platted setback with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle and the Derby Reporter, of one-time notice of this vacation proceeding on February 21, 2008, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted setback and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted setback described in the petition should be approved with conditions;
1. The platted 15-foot setback, which runs parallel to Pepper Ridge Street located on the west side of Lot 13, Block D, Fossil Rim Estates will be replaced with a 12-foot setback.
  2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
  3. All improvements shall be according to City standards and at the applicant's expense.
  4. Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) The platted 15-foot setback, which runs parallel to Pepper Ridge Street located on the west side of Lot 13, Block D, Fossil Rim Estates will be replaced with a 12-foot setback.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
- (3) All improvements shall be according to City standards and at the applicant's expense.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**MOTION:** To approve, subject to staff recommendation.

**MARNELL** moved, **SHERMAN** seconded the motion, and it carried (10-0).

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- 3-4. **Appeal of the Address Guidelines for an unnamed public street (associated with VAC20007-40).**

**Background:** Platted Reserve “B” in the Greenwich Office Park Addition was vacated and then dedicated as public street right-of-way (ROW), with conditions, as recommended by the MAPD, the Subdivision Committee (unanimously, December 27, 2007), the MAPC (12-0, January 10, 2008) and the WCC (unanimously, February 12, 2008); see attached MAPC report for conditions of approval. At the time of approval for VAC2007-40 by the appointed and elected officials a street name had not been approved by the Address Committee for the newly created public street.

On February 14, 2008, the Address Committee met with the applicant (Greenwich 13, LLC) and agent (MKEC) to consider their request for two exceptions to the Address Guidelines:

- (a) Name the street Berkley Square Parkway – DENY (2-8)
- (b) Address the street right of way as #10, #20, #30, etc, etc – DENY (3-7)

At their February 28, 2008, meeting, the Subdivision Committee considered the applicant’s appeal of the Address Committee’s recommendation to deny the proposed street name and addressing. The Subdivision Committee agreed with the Address Committee’s recommendation to deny, thus today’s appeal by the applicants to the MAPC.

The exhibit provided by the applicant shows a street that goes from Veranda Street, east to Greenwich Road, a bit less than a ½-mile. Reserve B, the unnamed public street, is approximately 440-feet long from its intersection with Veranda, east to its cul-de-sac ending at Greenwich. VAC2007-40 created approximately 440-feet of public street ROW.

The Address Committee has provided an attached document, which includes standards in their ‘Addressing in a Regional Context’ guidebook, the existence of a street already named Berkeley, Subdivision Regulations, Subdivision’s lack of authority in address numbering, the Code of the City of Wichita’s numbering system and other reasons for their denying the applicant’s proposed Berkley Square Parkway name and its proposed addressing.

**BILL LONGNECKER, PLANNING STAFF**, presented the staff report.

**HENTZEN** asked if there were any limitations on the length of the street.

**LONGNECKER** said in the design of streets length it is a consideration for cul-de-sacs, as is the width for all streets.

**MICHAEL KOLLMAYER , IT/IS GIS, WICHITA/SEDGWICK COUNTY ADDRESS COMMITTEE**, commented that on February 14, 2008, the Committee met with the applicant and agent to discuss the Berkeley Square Parkway name and building numbering issues. He explained that the City’s address guidelines (*Addressing Within a Regional Context*), created in March 2004 establish certain street “types” in order to avoid computer entry mistakes and delays in response to 911 calls. He said Postal Address Standards Publication 28, which also addresses street types is incorporated into the City’s guidelines. He said since “square” and “parkway” are both considered street types, the Committee felt this could cause mistakes at the 911 dispatch center. He explained that other restrictions also apply such as having streets with the same names, and commented that there is already a Berkley Street located in the south part of town. He said the action of the Address Committee on the two requested exceptions was to deny naming the street “Berkeley Square Parkway,” and to deny the proposed numbering system.

**GISICK** referenced Chapter 6 - “Standard for street type assignment” of *Addressing Within a Regional Context* Address Guidelines and commented that “square” is not listed as an acceptable street name.

**KOLLMAYER** explained that “square” was listed in Publication 28 published by the US Postal Service, which is referenced and incorporated into the City’s guidelines.

Responding to a question from **HENTZEN** concerning violations of the address guidelines, **KOLLMAYER** explained that the Guidelines also include similar sounding street names, vanity names, number of characters in a street name and other items.

Responding to a question from **SHERMAN**, **KOLLMAYER** stated that if a name is declined, staff usually gets feedback from the client and asks them to come up with a new street name.

Responding to a question from **FOSTER**, **LONGNECKER** explained that the Subdivision Regulations have no jurisdiction on street numbering.

**DENNIS ROONEY, SEDGWICK COUNTY DIVISION OF OPERATIONS AND INFORMATION, DIVISION DIRECTOR 911**, said they concur with the Address Committee's recommendation to deny the proposed name. He said the main issue is that there is already an East Berkley located in the south part of town. He explained that in the GIS database every street in the city has a directional added to it. He said there would be an East Berkley Street and an "East Berkeley Square Parkway," which they believe would cause confusion, particularly if the Computer Aided Dispatch" (CAD) System went down. He said numbering was also an issue since standard formatting from East Berkley would be 1200, 1300, 1400, etc., up to Hydraulic. He said off of Greenwich east or west numbering should be 11100 through 11999. He said since the property was located one block west of Greenwich Road, this was also a concern. He said house numbers and building numbers usually help identify major cross streets. He added that there is also some concern because dispatchers sometimes enter "common places" such as shopping malls, apartment complexes and other gathering spots. He said there is a "Barclay Square Apartments," and that could also be confused with "Berkley Square Parkway." He said the names are just too close, and the locations are on different sides of town. He suggested that the applicant drop either "square" or "parkway" from the name, if approved. He said they feel public safety is more important than a vanity address.

**HENTZEN** said he had lived on Berkley Street, and had never heard it referred to as East Berkley. He also asked how an emergency would be reported at the location now?

**ROONEY** clarified that in the GIS database, all streets have a directional attached to them.

**HENTZEN** asked where this new street was located?

**LONGNECKER** said it is an unnamed public street that was Reserve B in the Greenwich Office Park Addition. Reserve B was vacated by case VAC2007-40, and dedicated as a public street without a name, thus this meeting. He also noted that the street name had been an unresolved issue prior to vacation of Reserve B, and its reversion to a public street.

**FOSTER** said he understood the confusion. He asked about the possibility of naming it "Berkeley Parkway," and correcting the street numbering.

**ROONEY** commented that the possibility of confusion still exists.

**GEORGE LAHAM, 150 N. MARKET, APPLICANT**, stated that the development was located at 13<sup>th</sup> and Greenwich Road. He briefly reviewed the new development, which consisted of approximately 100-acres designed for residential, office, retail, restaurant and hotel development. He referred to various aerial maps of the area, and a depiction of one of the proposed office buildings consisting of an "English Manor" design, which he explained was the theme for the development. **LAHAM** referenced such a neighborhood in London England as the idea for this development.

**LAHAM** said he would like to individually address the issues mentioned in the staff report. He commented that the two Berkley streets were not spelled the same. He said "square" was not mentioned as a street type in Chapter 6 the City's Address Guidelines, which he thought was confusing because if

the Guidelines were being used in Wichita/Sedgwick County, then the GIS system was not following the Guidelines. He said they were also concerned about safety, and that they are not interested in compromising public safety for a street name. He commented that both the Fire Department and Emergency Medical Services (EMS) representatives on the Address Committee indicated that they had no problem with the name "Berkeley Square Parkway" at the February 14 meeting, and that they had said that they would not have a problem responding to an emergency at that address. He said he had a lot of respect for "first responders," and based on Fire's and EMS's comments he did not believe the Fire Department unit responding to an emergency at the location would have their response time compromised. He said he thought firefighters familiarize themselves with all the streets in their area of responsibility. He said he had multiple objections to the issue of the number of characters in the street name not being more than 12, and mentioned Bradley Fair Parkway (18 characters), Oak Creek Parkway (15 characters), Waterfront Parkway (17 characters) and Town East Drive (13 characters). He said they all have more than 12 characters in the names, but have all been approved as street names. He said this seemed a little inconsistent.

**MOTION:** To allow the applicant more time (approximately 3 minutes).

**DOWNING** moved, **VAN FLEET** seconded the motion, and it carried (10-0).

**LAHAM** commented that if an emergency were to occur at the property now during construction, a call would reference 13<sup>th</sup> Street and Greenwich Road making it possible to identify the location of the emergency. He said there are other confusing location names such as "Waterfront" and "WaterWalk," and asked why those kinds of situations aren't eliminated.

**LAHAM** stated that they want to build a quality development that is an asset to the community. He mentioned several other developments Laham Development has completed in the community. He concluded by saying that he was born and raised here and that he loves Wichita, and is passionate about what he does. He said they believe the right name will add to the ambiance of the area. He said themes have caught on because they have been effective.

**SHERMAN** asked why the name Berkeley; was the street named after someone or was there sentimental value attached to it?

**LAHAM** responded that it is not an easy job to come up with a name. He briefly explained that they wanted to do something different for this area like the English manor style. He said they were researching English names and discovered that there actually is a prominent park in London named Berkeley Square.

**SHERMAN** asked how long the development has been marketed as Berkeley Square Parkway.

**LAHAM** responded since Thanksgiving of 2007.

**SHERMAN** asked staff if there has ever been an instance where this has been done before, having the same street name?

**KOLLMAYER** said there are several such streets and gave the examples of Reeds Cove and Reeds Street; Central Avenue and Central Park, among others.

**GISICK** asked how long has it been since "Oak Creek Parkway" was named? He said to him it was the same issue and mentioned Oak Street and Oak Park. He asked why it was such a big deal now and not then.

**KOLLMAYER** explained that the Address Guidelines were developed as a way to simplify and restrict street types within the City limits in order to eliminate delays in response times for EMS and Fire.

**VAN FLEET** said he viewed guidelines as suggestions, not as set in concrete and asked if any flexibility was allowed.

**KOLLMAYER** said the committee uses the Guidelines as a standard when making recommendations to the Subdivision Committee and the MAPC. He said the Address Guidelines were developed as a way of standardizing street names throughout city. He said similar guidelines are used by addressing agencies throughout the state in order to improve services to communities.

TAPE 1, SIDE 2

**DOWNING** commented that although the postal system is important, if he gets a letter a few days late that doesn't have too much affect; however, if his house is on fire, that is a different story. He asked Fire Department staff to comment on how they felt about the proposed street name.

**BOB THOMPSON, WICHITA FIRE DEPARTMENT, PREVENTION AND PUBLIC EDUCATION**, stated that naming the street "Barkeley Square Parkway" is not going to affect the Fire Department. He said once Fire personnel are dispatched, they have a standard map page from the CAD system in their trucks. He said Fire will be switching the system April 1, 2008, and that the map should then be displayed on the PC's in the units. He commented that another item was familiarization and that all Fire crews drive their areas of responsibility and become familiar with them. He said he has done research and in the past seven years, the Fire Department has responded to 371 calls at 13<sup>th</sup> Street between Webb and Greenwich Roads. He said of those calls 22 were fire related; 64 were false alarms; and 210 were medical calls and other calls equaling 371. He said whatever the MAPC decides; this will not affect the Fire Department's ability to find an address off of "Barkeley Square Parkway."

**HILLMAN** commented that quite often there is a delay until Fire personnel receive the dispatch.

**THOMPSON** commented that the Fire Department's average overall response time is four minutes.

**HILLMAN** said that is after they have received the call. He said the issue was how long did it take dispatch staff to identify where an address is located?

**THOMPSON** said once in a while they get something that is not a good address. He said it happens, but is not an everyday occurrence.

**HILLMAN** requested clarification from dispatch on delay times.

**ROONEY** said he did not have exact statistics on average response times. He said their concern is the time it takes once dispatch receives the call, enters the call, and notifies the appropriate responder. He said another issue is many calls are received from cell phones. He said if the call is received by a "hard line," the system automatically displays the location of the phone. He mentioned the possibility of entering 1100 east Berkley instead of 11000 east Berkeley. He commented that dispatchers are human and that they have to listen to radio traffic and the citizen's phone call at the same time.

**GISICK** said if 1100 instead of 11000 is entered, there is going to be a problem anyway.

**ROONEY** responded that the central computer gives the dispatcher a choice say of either Central or Central Park. He said with this address, there is no choice.

**HILLMAN** asked **ROONEY** if he considered the previous identification of three different streets as a variation of Central a mistake.

**ROONEY** said he was not saying it was a mistake; however, he said if he was present, that probably wouldn't happen again, and that 911 administrative staff would probably oppose any similar proposal.

**MOTION:** To approve applicant's request for use of the name "Berkeley Square Parkway."

**HENTZEN** moved, **VAN FLEET** seconded the motion,

**SUBSTITUTE MOTION:** To support the recommendation of the Subdivision Committee on the street naming.

**HILLMAN** moved, **SHERMAN** seconded the motion, and it failed (3-7).

**THE ORIGINAL MOTION:** To approve the applicant's request for use of the name "Berkeley Square Parkway was then voted on and it carried (7-3).

**GISICK** asked about the street numbering?

**JOE LANG, LAW DEPARTMENT**, suggested that the items be taken in two separate motions.

**MOTION:** That the City numbering system as recommended by the Subdivision Committee be used.

**GISICK** moved, **DOWNING** seconded the motion, and it carried (10-0).

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❖ **PUBLIC HEARINGS**

**ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 P.M.**

4. **Case No.: ZON2008-02** – Farzaneh Nasiri (owner/applicant/agent) Request City zone change from "GO" General Office to "NR" Neighborhood Retail on property described as;

The East 62 feet of Lot 4, Jim Fisher Addition, Wichita, Sedgwick County, Kansas. Generally located 6019 East Central (750 feet west of Woodlawn, south of Central).

**BACKGROUND:** The applicant owns 6019 East Central Avenue, a .17 acre platted lot, located on the south side of East Central, approximately 300 feet west of north Hillcrest Avenue. The property is zoned "GO" General Office with Conditional Use 555 to permit "personal care services" (a tailor shop). The applicant is seeking "NR" Neighborhood Retail zoning, and currently operates a tailor shop. She is seeking "NR" zoning to permit a restaurant. Restaurants are first permitted in the "NR" zoning district, provided the restaurant does not exceed 2,000 square feet in gross floor area and does not provide any drive-up window or in-vehicle service.

The site is developed with a building containing less than 2,000 square-feet that was constructed as a residence in 1951. With the recent improvements to Central Avenue, the site is served by a commercial grade drive off of Central Avenue. Except for the portion covered by the building, the entire lot is paved, and used for parking and traffic circulation. There are seven parking stalls, including a handicap accessible stall, located at the rear of the lot, and two more parking spaces in the front. Parking standards for a restaurant are one parking space per three occupants. If that is the maximum number of parking spaces available then the restaurant use would be limited to approximately 27 patrons at any one time. There is cross lot circulation to the lot located to the east, but not to the west. (Conditional Use 555 required at least five parking spaces be installed to the rear of the building, and that cross lot circulation be allowed when the lots on either side are redeveloped.)

Nearby zoning includes: “NR,” “TF-3” Two-family Residential, “GO” and “LC” Limited Commercial. The nearby properties are developed with office, retail shopping, personal improvement services and duplex uses. The “NR” zoned property is located immediately to the east of the application area, and is subject to a restrictive covenant that limits uses on the site to “GO” uses and to a single “NR” use, a hair stylist salon.

**CASE HISTORY:** The application was part of application number Z-2806 (City Council meeting of 12-8-1987) that involved 15 lots located along the south side of Central, between Brookside Parkway and Hillcrest, which changed the application area’s zoning from “AA” One-Family Dwelling and “A” Two-Family Dwelling districts to the “BB” Office district. As part of zone change Z-2806 “Covenant 2” was established that prohibits the combining of lots fronting Central with the lots located to the south, fronting Oakwood Drive. On 12-16-1999, the MAPC approved Conditional Use 555 that granted “personal care service” uses. As a condition of approval of Z-2806, the property was re-platted in 1987 as part of the Jim Fisher Addition.

**ADJACENT ZONING AND LAND USE:**

NORTH:	“LC”	Limited Commercial/CUP-45; retail shopping
SOUTH:	“TF-3”	Two-family Residential; duplex residential
EAST:	“NR”	Neighborhood Retail but restricted to GO uses and a hair stylist salon
WEST:	“GO”	General Office; office

**PUBLIC SERVICES:** Central Avenue at this location has approximately 108 feet of right-of-way, and has four continuous through lanes, a continuous left turn lane, and the north side has a continuous right-turn lane. The south side does not have a right turn lane. Central Avenue carries between 19,000 and 23,000 average daily trips per day. Sewer and water services are available.

**CONFORMANCE TO PLANS/POLICIES:** The *2030 Wichita Functional Land Use Guide* depicts this location as being appropriate for “local commercial” uses. Local commercial uses contain concentrations of commercial, office and personal service uses that do not have a significant regional market draw and high retail traffic. The range of uses includes: office, vehicle repair and service, grocery stores, florist shops, restaurants and personal service facilities.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property has frontage on Central Avenue, a four-lane arterial recently improved with the addition of a center right-turn lane and a west-bound right-turn lane. With the recently completed Central Avenue improvements, a number of driveways were closed or consolidated to minimize turning conflicts. Central Avenue has an average daily traffic volume ranging between 19,000 and 23,000. Nearby zoning includes: “NR,” “TF-3” Two-family Residential, “GO” and “LC” Limited Commercial. Nearby properties are developed with office, retail shopping, personal improvement services and duplex uses. Extensive retail uses are located north of Central Avenue. The “NR” zoned property is located immediately to the east of the application area, and is subject to a restrictive covenant that limits uses on the site to “GO” uses and to a single “NR” use, a hair stylist salon.
2. The suitability of the subject property for the uses to which it has been restricted: The property is currently zoned “GO” General Office with a Conditional Use that permits a tailor’s shop. The site could continue to be used as currently zoned as the GO district permits a number of uses that seem to successfully exist in the general proximity of the application area.



3. Extent to which removal of the restrictions will detrimentally affect nearby property: The site currently has a restriction, Covenant 2, which prevents the combining of the application area with residential property located to the south, and a another development standard requires cross-lot circulation with properties to the east and west. The property has a screening fence separating the application area from the residential uses located to the south, and the property has been paved to facilitate cross-lot circulation.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: “NR” Neighborhood Retail zoning has a fairly limited list of commercial uses when compared to the other commercial zoning districts permitted by the code. Approval would add a somewhat wider range of uses for the property than is currently allowed, and make the property more valuable to the applicant. The improvements to Central Avenue address the traffic conflict concerns, and protect the public’s safety.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The request is consistent with the Comprehensive Plan’s designation for “local commercial” uses.
6. Impact of the proposed development on community facilities: None identified.

**MOTION:** To approve, subject to staff recommendation.

**HENTZEN** moved, **DOWNING** seconded the motion, and it carried (10-0).

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5. **Case No.: CUP2008-06** – TMD Southglen II LLC, c/o Michael J. Boyd (applicant/owner); The Baughman Company, PA., c/o Russ Ewy (agent) Request DP-9 Westlink Center Amendment #4 to add an additional 48 square foot sign, 25 foot tall, greater than 35 feet from the ROW on property described as;

Lot 1, Westlink Center 4th Addition, Sedgwick County, Kansas. Generally located South of Central and west of Tyler (8979 W Central).

**BACKGROUND:** DP-9 limits signs to the “LC” Limited Commercial Sign Code provisions, which would allow signage area equivalent to .8 multiplied by street frontage, and require that signs be spaced 150 feet apart. The application area formerly housed a Taco Bell; the Taco Bell moved into a new building two lots west of the application site. With the new Taco Bell sign, the number of signs and sign square footage for this portion of DP-9 is now used up. The applicant wishes to add an additional 48 square foot sign for a new Starbucks in the former Taco Bell building. The proposed sign is located where the former Taco Bell sign was, it is 25 feet tall, and would sit over 65 feet back from Central. Therefore, the applicant has requested this CUP Amendment to allow an additional 48 square-foot sign; see the attached site plan and elevations.

DP-9 is an older CUP; the proposed sign is on one of four drive-through restaurant sites along this portion of Central. The remainder of the CUP is developed with a bank, strip commercial, office, multi-family residential, a theater, and auto-service uses. North of this CUP, across Central, is the “GC” General Commercial zoned DP-209. South of this site is an LC zoned strip center and an apartment complex. East of the site are LC zoned restaurant and banking uses. West of this site are LC zoned restaurant and office uses.

**CASE HISTORY:** DP-9 was approved in 1980, and has revisions from 1983, 1994, and 2003. The site was platted as the Westlink Center 4<sup>th</sup> Addition in 1984.

**ADJACENT ZONING AND LAND USE:**

NORTH:	“GC”	Auto dealership and service, restaurant, office
SOUTH:	“LC”	Strip retail commercial, apartment complex
EAST:	“LC”	Drive-through restaurants, bank
WEST:	“LC”	Drive-through restaurants, retail, office

**PUBLIC SERVICES:** Central is a four-lane arterial road with a 50-foot half-width right-of-way (ROW) at this location with a central turn lane. This portion of Central has a daily traffic count of 25,242. The 2030 Transportation Plan identifies this portion of Central as remaining a 5-lane arterial.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this area as appropriate for “local commercial.” This category encompasses areas that contain concentrations of predominantly commercial, office and personal service uses that do not have a significant regional market draw. Commercial Objective III.B of the Comprehensive Plan encourages future commercial areas to “minimize detrimental impacts to other adjacent land uses”.

The Unified Zoning Code (UZO) states that Commercial Community Unit Plans (CUPs) may be used to establish appropriate sign controls. The Sign code permits applicants to request a CUP amendment to alter a CUP’s sign controls.

The Wichita Sign Code would limit the application area to .8 square feet multiplied by street frontage. Also, the Sign Code would require 150-foot separation between the proposed sign and other signs. Because the proposed sign is greater than 35 feet from Central, the 150 foot spacing requirement is not an issue. The Sign Code limits the number of signs on one zoning lot to one per 150 linear feet; this site has already exceeded the number of signs allowed under the sign code.

**RECOMMENDATION:** While DP-9 has space for this additional restaurant, all signage rights are used up on the existing signs. DP-9 has the precedence of signage for each of the existing drive-through restaurants on this portion of Central. The other existing signs are directly on the Central frontage; this proposed sign is over 65 feet back from Central, which will mitigate visual sign clutter at this location. This exact sign location had a Taco Bell sign before its removal. The proposed sign is smaller than each of the existing restaurant signs on this portion of Central. This site, with 105 feet of frontage, would be authorized an 84 square-foot sign if the other CUP signs did not exist; the applicant is requesting significantly less with 48 square feet. The proposed sign will not be visible from residential zoning or development. The UZO states that CUPs may be used to establish appropriate sign controls; the Sign code permits applicants to request a CUP amendment to alter a CUP’s sign controls. Based upon information available prior to the public hearings, planning staff recommends that the request for Amendment #4 to CUP DP-9, to allow a 48 square foot sign on Parcel 1 be APPROVED, per General Provisions of the CUP, the Provisions for Parcel #1 and the following conditions:

1. DP-9 General Provision #2 shall be amended to include: “Amendment #4 permits one additional 48 square foot sign in Parcel 1. This sign shall not exceed 25 feet in height, shall be no closer than 65 feet to Central Avenue, and shall conform to the approved site plan and elevations of DP-9, Amendment #4.”
2. The site shall be developed in conformance with the approved site plan and elevations.
3. The applicant shall submit a revised CUP document for review and approval by the Planning Director, prior to obtaining a permit for the proposed sign, within six months of approval by the MAPC or the City Council.

The staff recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: DP-9 is an older CUP; the proposed sign site is on one of four drive-through restaurants along this portion of Central. The remainder of the CUP is developed with a bank, strip commercial, office, multi-family residential, theater, and auto-service uses. North of this CUP, across Central, is the “GC” General Commercial zoned DP-209. South of this site is an LC zoned strip center and an apartment complex. East of the site are LC zoned restaurant and banking uses. West of this site are LC zoned restaurant and office uses.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned “LC” Limited Commercial with a CUP overlay. The property is suitable for the commercial uses to which it has been restricted.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed additional sign within this CUP could subject surrounding neighbors to more signage than normally permitted under the Sign Code. This site is well buffered from any nearby residential areas. The proposed sign location and size will mitigate sign clutter concerns, as the proposed sign is smaller and farther from street frontage than nearby signs.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this area as appropriate for “local commercial.” This category encompasses areas that contain concentrations of predominantly commercial, office and personal service uses that do not have a significant regional market draw. Commercial Objective III.B of the Comprehensive Plan encourages future commercial areas to “minimize detrimental impacts to other adjacent land uses”. The UZC states that CUPs may be used to establish appropriate sign controls; the Sign code permits applicants to request a CUP amendment to alter a CUP’s sign controls.
5. Impact on Community Facilities: All public facilities are available. Existing road facilities are adequate.

**MOTION:** To approve, subject to staff recommendation.

**HENTZEN** moved, **DOWNING** seconded the motion, and it carried (10-0).

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6. **Case No.: CON2007-44** – Richard J. Gronniger (owner/applicant); Robert J. Kaplan (agent) Request a County Conditional Use to expand an existing sand and gravel operation (CON2005-07 & CON2003-32) by adding 18-acres to the original 17-acre site on property described as;

That part of the Southwest Quarter of Section 4, Twp. 26-South, Range 1 West of the 6<sup>th</sup> P.M., Sedgwick County, Kansas described as: The West half of said Southwest Quarter, EXCEPT the South 220 feet of the North 545 feet of the West 240 feet thereof, and EXCEPT beginning at the Southwest corner of said Southwest Quarter; thence on an assumed bearing of North 00 degrees 27 minutes 48 seconds East, 120 feet along the West line of said Southwest Quarter; thence North 78 degrees 00 minutes 34 seconds East, 1,364.80 feet to the East line of said West half; thence South 00 degrees 22 minutes 58 seconds West, 400 feet to the Southeast corner of said W half; thence South 89 degrees 50 minutes 52 seconds West, 1,333.33 feet to the point of beginning. Generally located west of the Ridge Road – 73<sup>rd</sup> Street North intersection, on the southeast corner of 73<sup>rd</sup> Street North and 87<sup>th</sup> Street West.

**BACKGROUND:** The applicant is requesting a Conditional Use to allow an 18-acre expansion of an existing unplatted 17.388-acre sand and gravel extraction operation; CON2003-32. The proposed

expansion would extend the existing operation north, towards 73rd Street North. The proposed expansion would increase the 15-acre sandpit lake (final depth of 40-feet), by 18-acres. The applicant is not asking for an extension of CON2003-32's approved operation time of 8-years. The subject property and the existing sand pit are zoned "RR" Rural Residential, which permits consideration of a Conditional Use.

CON2007-44's site plan shows CON2003-32's existing operational area (Phase I) which includes the existing plant site, the scale, the existing sand pit lake and the proposed expansion of it (Phases II & III), fencing, a gate at the entrance to the operational site, a gate at the entrance of access road onto 73rd Street North and existing tree lines. The site plan shows a 222.9-foot setback located along a portion of the south side of the site and 165-foot setbacks on the east and west sides of the site. The site plan shows the minimum required 50-foot setback on the north side of the site. The site plan identifies the existing and proposed fence in reference to compliance with CON2005-0007, which allowed a 5-strand barbed wire instead of chain link. The site plan does not show any existing or proposed signs, which must be shown on the plan for consideration. The County allows a 32 square-foot sign, if the applicant wants a larger sign, they must apply for an amendment to the Conditional Use. The site plan shows a house (1900), owned by the applicant and located just north of the expanded site. The applicant's redevelopment plan shows one (1) single-family residence on the site, after extraction operations ended.

The area is primarily agricultural in use with scattered large tract/lot single-family residences, including 15-18 houses on either side of the site along 73rd Street North. Non-residential development includes a contractor's yard northeast of the site and two church campgrounds west of the site, both along 73rd Street. Access onto the site will be off of 73rd Street, a non-section line sand road maintained by Park Township with contractual assistance from the applicant. Sedgwick County OCI has received complaints about the condition of the road and dust off of, as generated by trucks coming and going to the existing sand pit. The merging of the Arkansas River and a section of the Wichita – Valley Center Floodway forms the triangle shaped south boundary of the area. The site is located within this triangle of merging river and man-made drainage canal. There are at least two other spent sandpits (CU-277 & CU-268) and one approved sandpit (CON2006-13, not in operation) located within approximately ½-mile of the site, with all of them having or will be directing their sand trucks to Ridge Road.

The subject property appears to be entirely in the Arkansas River's 100-year flood boundary, therefore, the Sedgwick County Public Works Department will require a drainage plan, including easements, reserves, or covenants (as applicable) to ensure that the floodway is properly maintained. Sedgwick County Public Works Department will also require that the applicant apply for and receive an approved Flood Plain Development Permit, which will partially address the County's concerns about obstructions in the flood plain, such as equipment and aggregate piles. This permit will also require the applicant to include in his site plan how untreated storm water will be excluded from the proposed sand and gravel pit and confirmation that the site is a minimum of 1,000-feet from the levee along the Arkansas River. The County is also requiring the applicant to comply with State Statute 24-126, the "Levee Law," which addresses stockpiling on the property. Compliance will be obtained through the Division of Water Resources, located in Topeka. The subject property also is located within the Equus Beds Groundwater Management District #2. The applicant must apply for water rights through the Division of Water Resources, located in Topeka. All County and State required permits, inspections and plans must be approved prior to the site operating for sand and gravel extraction

**BILL LONGNECKER, PLANNING STAFF**, presented the staff report. Mr. Longnecker noted that this case had been considered by the MAPC at their December 20, 2007, meeting. At that meeting, the MAPC had deferred a recommendation, and had instructed the applicant and staff to come to an agreement in regards to the repair of 73<sup>rd</sup> Street North and the problem of dust generated by the sand pit traffic. He pointed out to the Planning Commission the changes to conditions #5 & #6. Condition #5 cut a year off of the original operation time of the sand pit, and condition #6 provided a treatment for the road, which would reduce dust generated by the truck traffic to and from the sand pit. He also noted that the County Engineer had asked that a drainage plan, for review and approval by the County, be added to

condition #1, and that condition #3 should refer to CON2005-07 (an amendment for fencing) and not CON2003-32.

**BOB KAPLAN, AGENT FOR THE APPLICANT**, said he didn't believe a presentation was necessary. He said his applicant has enhanced the existing Conditional Use by shortening the time by one year, and voluntarily adding an additional condition that doesn't exist now, which was the dust control program. He added that the applicant has accepted the additional conditions added by staff.

**FRANK LACY, 9555 W. 73<sup>rd</sup> STREET** said nothing has changed at the location since the MAPC first discussed this case. He said he appreciated the shortened period of operation; however, that has not settled the problem of dust and the danger that it causes on 73<sup>rd</sup> Street. He referred to the photograph of the road and pointed out where it rises 15 feet in height and how that obstructs the view along the road. He related a story of how he and his wife were driving along the road, when a trash truck had stopped on the left side, causing a truck coming over the hill to move into his lane to avoid the parked trash truck and how he had to swerve onto the wrong side of the road in order to avoid a head-on-collision. He said when he calmed down he realized that the truck probably didn't see him because of the dust raised in the road. He said it is almost impossible that only one person could pay to pave that road, and he understood that, but he suggested that a water truck could be run up and down the road 3-4 times a day to cut down the dust. He also asked if it was possible to put a stop sign at the end of the drive where trucks from the sand pit come out onto 73rd. He said people using the road coming to and from the nearby campgrounds continually, and that they are not aware of what is going on and he is concerned for their safety. He again suggested putting water on the road to solve the dust problem.

**HILLMAN** asked if it was possible to ask County Code Enforcement to look at putting a stop sign out there, or make a recommendation to that effect.

**JIM WEBER, SEDGWICK COUNTY PUBLIC WORKS**, explained that the County does not have the authority to put stop signs on private drives where they intersect public streets.

**DENNIS** asked **WEBER** his opinion on the effectiveness of the dust control agent calcium chloride.

**WEBER** briefly explained that calcium chloride is typically used as a de-icing material. He said the way the material works is the salt draws the water, gravel and dirt to themselves, which keeps the dust down. He said he thinks that it will be more effective than water trucks. He said if dust control is done correctly, it should be effective 24-hours a day, seven days a week. He said road sprinkling by water trucks can end up causing ruts and more traffic problems. He said he feels the calcium chloride is a better solution in the long run.

**HENTZEN** asked how often the treatment should be applied daily, weekly or monthly.

**WEBER** said he didn't have the vendor's recommendation, but that the staff report required that the vendor provide the County a schedule of the needed applications. He said more applications may be needed initially to get the material incorporated into the road; then as it builds up, frequency and amount of applications could be decreased.

**FOSTER** asked about coordination with the Township.

**WEBER** agreed that since the road is maintained by the Township, coordination of the new program with them would be a good idea.

**DOWNING** asked when the new dust control program would begin; the actual start date, because he was concerned about the current road conditions and the potential for accidents.

**KAPLAN** said the provider needs to submit a plan for quantities and frequency of application.

**DOWNING** asked what was going to be done in the meantime.

**WEBER** clarified that the new requirements don't come into play until they open up the next phase of the Conditional Use permit. He said staff can't go back and make the applicant do dust control on the current conditional use permit. However, he said as soon as this case is approved, he assumes the applicant will get the program started.

**KAPLAN** said the applicant currently has an approved Conditional Use, and that they are currently operating without a dust control program. He said since they have volunteered to initiate a dust control program for the amended conditional use permit, and that they would have no reason to delay implementation of the program.

There was a brief discussion as to exactly when the new dust control plan would go into effect.

**HENTZEN** requested that the Township be advised about the new program by letter.

**MITCHELL** asked that if the application was not approved, how long would the current operation continue?

**KAPLAN** said the current Conditional Use permit is effective until September 2011, and that the applicant will remove the same quantity of sand even without the additional acreage; they will just dig deeper. He said there was no upside to denying this application.

Responding to a comment by **MITCHELL**, **KAPLAN** explained that the applicant has a written contractual relationship with the Township for maintenance of 73<sup>rd</sup> Street. He said his client has offered materials to the Township at no cost and all the Township has to do is apply them. He said the applicant truly believes they are doing their part.

**GISICK** clarified then there could be dust blowing until 2011, if this case is denied.

**MOTION:** To approve with the staff recommended conditions and to add to condition #6 that the applicant will begin application of the dust control agent 15 days from the approval of the annual schedule by County Code Enforcement and County Public Works.

**MARNELL** moved, **HILLMAN** seconded the motion, and it carried (10-0).

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7. **Case No.: CON2008-01-** Judith Ward (owner); Josh Roy (applicant); Judy Beals (agent) Request City Conditional Use request for an existing accessory apartment on a "TF-3" Two-Family Residential zoned property on property described as;

Lots 70 and 72, Dixon's Addition, Wichita, Sedgwick County, Kansas. Generally located North and east of the intersection of South Estelle and East Gilbert (640 S. Estelle).

**BACKGROUND:** The applicant requests a Conditional Use to allow an accessory apartment on a 0.15-acre platted lot zoned "TF-3" Two-family Residential, located north and east of the intersection of S. Estelle and E. Gilbert (640 S. Estelle). The application area is developed with a two-family residence (duplex) and an existing non-conforming accessory apartment. The applicant proposes to continue using the existing accessory apartment as a rental property. The accessory apartment has been used as such since at least 1995 and at this time there are no plans of any remodeling.

The character of the surrounding area is residential. All properties surrounding the site are zoned TF-3 and are developed with a mixture of single-family residences and duplexes. The applicant submitted the attached site plan illustrating the location of the accessory apartment behind the primary dwelling.

An accessory apartment is defined as a dwelling unit that may be wholly within or detached from a principal dwelling unit. A dwelling unit includes provisions for sleeping, cooking, eating and sanitation. A Conditional Use is required to permit an accessory apartment in the TF-3 zoning district. Section III-D.6.a of the Unified Zoning Code (UZC) has the following requirements for an accessory apartment:

- (1) A maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling;
- (2) The appearance of an accessory apartment shall be compatible with the main dwelling and with the character of the neighborhood;
- (3) The accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling, including that it shall not be subdivided or sold as a condominium; and
- (4) Water and sewer service provided to the accessory structure shall not be provided as separate service from the main dwelling.

**CASE HISTORY:** The property was platted as Lots 70 and 72, within the Dixon's Addition recorded on February 19, 1918.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"TF-3"	Two-family Residential	Duplex
SOUTH:	"TF-3"	Two-family Residential	Single-family residences
EAST:	"TF-3"	Two-family Residential	Single-family residences
WEST:	"TF-3"	Two-family Residential	Single-family residences

**PUBLIC SERVICES:** The subject property has access to S. Estelle, a paved residential street with a 50-foot right-of-way. The subject property is connected to public water and sewer. No additional impacts on public services are anticipated.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan designates this area as appropriate for "Urban Residential" development. The Urban Residential category includes all housing types found in the municipality. The policies of the Unified Zoning Code (UZC) allow one accessory apartment to be associated with a principle dwelling as a "Conditional Use" if the proposed use is compatible with the principle dwelling, is in character with the surrounding residential development, is accessory to the main structure, remains in a single ownership, and obtains water and sewer service from the main dwelling hook-up. As recommended for approval, the subject property conforms to adopted policies.

**RECOMMENDATION:** The application area is zoned TF-3, as is the surrounding residential neighborhood. The supplementary conditions of the UZC, along with building code requirements should ensure that the proposed accessory apartment is compatible with the surrounding residential neighborhood. Based upon information available prior to the public hearing, staff recommends that the request be APPROVED, subject to the following conditions:

1. The accessory apartment shall be subject to all requirements of Section III-D.6.a of the Unified Zoning Code.
2. The applicant shall obtain all applicable permits, including but not limited to building, health, and zoning.
3. The site shall be developed in general conformance with the approved site plan.

4. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is residential. All properties surrounding the site are zoned TF-3 and are developed with a mixture of single-family residences and duplexes. The applicant submitted the attached site plan illustrating the location of the accessory apartment behind the primary dwelling.
2. The suitability of the subject property for the uses to which it has been restricted: The site could continue to be used for a duplex residence. Accessory apartments are allowed as a "Conditional Use" in TF-3 provided the applicant and the site meet the specified criteria. The applicant and the site meet the criteria so long as the accessory apartment remains in its current condition and remains as a single hook-up for water and sewer services.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The accessory apartment has existed for some time, so there is no physical change within the neighborhood. The existing driveway will provide adequate off street parking for the primary duplex dwelling and the accessory apartment.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan designates this area as appropriate for "Urban Residential" development. The Urban Residential category includes all housing types found in the municipality. The policies of the Unified Zoning Code (UZO) allow one accessory apartment to be associated with a principle dwelling as a "Conditional Use" if the proposed use is compatible with the principle dwelling, is in character with the surrounding residential development, is accessory to the main structure, remains in a single ownership, and obtains water and sewer service from the main dwelling hook-up. As recommended for approval, the subject property conforms to adopted policies.
5. Impact of the proposed development on community facilities: The request should have a minimal impact on community facilities.

**MOTION**: To approve, subject to staff recommendation.

**HENTZEN** moved, **DOWNING** seconded the motion, and it carried (10-0).

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❖ **OTHER MATTERS**

**DIRECTOR SCHLEGEL** briefly reminded the Commission of the Workshop scheduled for **Thursday, March 27, 2008** beginning at 11:30 in a.m. He commented that lunch would be provided.

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The Metropolitan Area Planning Department informally adjourned at 3:04 p.m.



March 13, 2008

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I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on \_\_\_\_\_, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
John L. Schlegel, Secretary  
Wichita-Sedgwick County Metropolitan  
Area Planning Commission

(SEAL)